Christofferson Logliners, Inc. *and* Lumber, Production & Industrial Workers Union Local 3038, affiliated with the United Brotherhood of Carpenters and Joiners of America. Case 19–CA–21763

September 24, 1993

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS DEVANEY AND RAUDABAUGH

On April 6, 1993, Administrative Law Judge David G. Heilbrun issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommend Order.

We agree with the judge that the Respondent violated Section 8(a)(3) and (1) by failing to recall from layoff employees Cahoon, Golden, Johnson, Kellough, and Stevens.[2] In adopting the judge's finding that counsel for the General Counsel met her evidentiary burden under *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), we note initially that these five employees engaged in a variety of union activities during the organizing campaign and that, in view of the often open nature of these activities, the Respondent was well aware of its employees' union activities and sentiments.[3] Further, we note that the timing of the Respondent's new and unprecedented written employee evaluation rating system coincided with the union campaign and the Union's certification.

We also observe that, in view of the judge's credibility resolutions, the Respondent's stated reasons for giving the generally negative evaluations of Cahoon, Golden, Johnson, Kellough, and Stevens do not withstand scrutiny, thereby raising the inference that other factors actually underlie the evaluations.[4] Finally, we note that coowner Jacquelyn Christofferson, architect of the written rating system, admittedly told Dispatcher Bruce Johnson, a supervisor who rated employees under this system, that unions were ''frightening'' and that they ''cheat,'' ''lie,'' and ''corrupt other employees.''

In these circumstances, and in light of all these factors, we agree with the judge that the General Counsel made a sufficient showing that union activities were a motivating factor in the Respondent's failure to recall these employees.[5]

In adopting the judge's finding that the Respondent failed to demonstrate that it would have denied recall to these employees even absent their union activities, we note that the record does not support the Respondent's contention that the rating system and the failure to recall them were necessitated by the need to ''cut'' some incumbent employees. In fact the record contradicts this claim. Commencing June 1, 1991, the Respondent found it necessary to hire 16 drivers for the 1991–1992 season to complement the group of recalled incumbent employees. Accordingly, the Respondent failed to demonstrate that positions were unavailable for Cahoon, Golden, Johnson, Kellough, and Stevens during the June 1991–1992 season.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Christofferson Logliners, Inc., Missoula, Montana, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] No exceptions were filed to the judge's finding that the failure to recall employee Richard Ostbye did not violate the Act.

[3] Indeed, in its brief on exceptions, the Respondent admits that it knew that the alleged discriminatees signed their names to employee notices and letters concerning unionization during the organizing campaign.

[4] The judge found that the ''evaluation system was merely a clumsily devised effort to justify refusing to recall employees identified with unionism.''

[5] In adopting the judge's finding that counsel for the General Counsel met her evidentiary burden, we do not rely on the judge's findings and inferences with respect to the written evaluation of employee Terry Mayer. The record does not establish with sufficient clarity that Mayer abandoned support for the Union.

Catherine M. Roth, Esq., for the General Counsel.
Greg R. Tichy, of Veradale, Washington, for the Respondent.
Harlan Bernstein, of Portland, Oregon, for the Union.

DECISION

STATEMENT OF THE CASE

DAVID G. HEILBRUN, Administrative Law Judge. This case was tried at Missoula, Montana, on April 21 and 22, 1992. The original charge was filed October 28, 1991, by Lumber, Production & Industrial Workers Union Local 3038, affiliated with the United Brotherhood of Carpenters and Joiners of America (the Union), and the complaint, later amended, issued December 12, 1991. The primary issue is whether Christofferson Logliners, Inc. (the Respondent) refused to recall certain employees from seasonal layoff because they assisted the Union by engaging in concerted activities, and to discourage employees from engaging in such activities.

On the entire record, including my observation of the demeanor of witnesses, and after consideration of briefs filed

by the General Counsel, Respondent, and the Union, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Montana corporation engaged in the business of transporting logs, with annual gross sales of goods and services valued in excess of $500,000. During the representative 12-month period of 1991, Respondent sold and shipped goods or provided services having a total value in excess of $50,000 from its facilities within Montana to customers in other States, or to customers within Montana which were themselves engaged in interstate commerce by other than indirect means. Further, during the same representative 12-month period, Respondent purchased and received goods and materials valued in excess of $50,000 at its Montana facilities directly from sources outside Montana, or from suppliers within the State of Montana, which in turn had obtained such goods and materials directly from sources outside the State. On these admitted facts I find that Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and, as is also admitted, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *Case Summary*

Respondent's principal business activity is to transport newly cut timber from remote forest areas to lumber mills. Each spring the thawing ground makes accessways to the pickup sites impassable, even by logging trucks. When effects of seasonal thawing ended in late spring 1991 certain laid-off drivers were not recalled, assertively because of poor work evaluations done by a management panel.

The Union had secured certification as exclusive bargaining representative early that winter. The group of six drivers involved had been, for the most part, openly active supporters of the organizing campaign that led to certification. General Counsel contends that these activities caused discriminatory selection of the particular six drivers, as disguised retaliation for their having assisted bringing in the Union.

B. *General Facts*

Respondent has been in business for about 20 years. Its coowners and chief officers are Leroy and Jacquelyn Christofferson, husband and wife. During peak operations, Respondent has had up to 50 employees as logging truckdrivers, forest site loaders, and shop repair mechanics. A wide area measured in hundreds of miles may be involved from remote forest cutting sites to distant lumber mills. Mountain terrain, off-road passaging, stringent weather conditions, and long driving times are all factors leading to rough wear and use of the sturdy logging trucks. Drivers are paid on a combination basis of tonnage hauled and distance traveled.

The annual spring breakup of thawing ground frost usually begins sometime in March, and its effects are over by May. As material to this case, Respondent's principal customer has been Champion International, with a large lumber mill in the vicinity. Effective on February 14, 1991, Champion uncharacteristically shut off all acceptance of logs, and gave Respondent no firm assurance about when deliveries were to resume.[1] Many drivers were immediately laid off, and the spring breakup, coupled with diminishing demand for lumber products, resulted in later-than-usual recalls. Eventually such recalls as did occur started around early June. Laid-off employees were recalled only when they showed a minimum consolidated job rating by management, and the reconstituted work force of June onward was augmented by hiring 16 new drivers.

The rating process was based on a written format developed by J. Christofferson. It consisted of six categories of job evaluation; these being (1) quality/accuracy of work, (2) cooperation/attitude, (3) quantity, (4) safety (accidents, injuries), (5) care of equipment, and (6) initiative. The supplementing definitions of each factor, as also prepared by J. Christofferson, were, respectively, (1) job knowledge which includes timeliness and ability to find location, (2) is just that, (3) production ability, (4) is just that which is required by contractors, (5) is just that—grease, wash, do safety check, and, finally, (6) do certain amount of thinking on their own—reliability.

Bruce Johnson and James Dyke Sr. are each combination driver-dispatchers, who make daily assignment changes of logging truckdrivers. They also coordinate longer term assignments, as with repeatedly required trips to a pickup site, either solo or as part of a timed ''string'' of trucks. Both these dispatchers were stipulated to be statutory supervisors for purposes of this case. They each served as evaluators for purposes of driver recall to employment, along with L. Christofferson.

The three-member rating panel was oriented by J. Christofferson in techniques to be used on or about April 15, and performed their ratings independently during the balance of that month. When completed the documents were returned to J. Christofferson for tabulation. They were done for all employees on the payroll at the time of suspended operations from the combination Champion's cut off of logs and the weather changes. She determined the median rating to be 54 based on a graduated scale of 1 to 5 per factor, and rounded this off to 50 as the number below which an employee was unsatisfactory to qualify for recall. On this basis she documented a report of termination for each of the six persons at issue, entering a short explanation about each one which drew from the principal weaknesses as a composite view of the raters. This document was placed in personnel files; however, advice to affected employees about their status was not given out. The situation lent itself to simply withering away of the prior employment relationship, because logging trucks ordinarily retained at home by their regular users over past spring breakups had been called into the shop for repair and the economy of removal from insurance coverage.

The issues of this case associate to the Union's organizing campaign of late 1990. With support from an employee committee of about a dozen persons, the Union closely won a Board-conducted election on December 6, 1990. In the course of this campaign, at least 2 supportive items of literature were sent to employees' homes, on which the signatures of most alleged discriminatees appeared. One of these

[1] All dates and named months hereafter are in 1991, unless otherwise indicated.

letters had also been prominently posted in Respondent's shop area, a place physically adjacent to the Christoffersons' residence and commonly entered by both of them. Both supervisory dispatchers had also noticed the posting and the signatures which appeared. Shortly after the election a union meeting was held to discuss bargaining objectives, and Supervisor Dyke attended the meeting as a passive observer. He was in fact a former member of several unions. The Union's certification did not issue until April, and inclusive contract negotiations followed that.

As further context for issues of this case, the opinion of the Christoffersons as to unionism generally is known. This was contained in testimony of J. Christofferson, who termed unions frightening and that they lie, cheat, and corrupt other employees. When pressed about whether her husband also held this view, she only recalled him being present at times of such talk but that he was negatively inclined toward unions because they made people lazy and could force unwanted membership.

C. *Particular Employees at Issue*

1. Wells Cahoon was first employed January 1987, and last worked actively as a logging truckdriver on February 13. He was in the approximate top one-third of the drivers by seniority. His testimony was expressed with somewhat labored difficulty, but acceptably persuasive in the overall as a matter of credibility.

Cahoon had a background in union activism in the area and had signed both preelection letters as an ''organizing committee'' participant. He talked openly with other employees about favoring the Union, and later served informally in research toward contract objectives. In May Cahoon telephoned L. Christofferson to inquire about recall, and was simply told things were ''pretty slow'' with no plans for getting all trucks back in operation. Cahoon was compositely rated to a 41 total, being seen best in quality of his work and worst in care of equipment.

2. Thomas Golden Jr. was first employed July 1988 and last worked actively on January 16 because of injury sustained during that month. He was also an experienced log-loader operator, both from previous employment and time in that occupation with Respondent. Golden claimed without contradiction to have been about 10th on the Company's seniority list. He was an extremely impressive witness from a demeanor standpoint, with excellent consistency in recalling specific details about subjects and episodes.

Golden had signed both preelection letters and actively communicated his support for the Union over the truck radio which had voice pickup even in the company office. When he obtained a medical release in April to resume active employment, he telephoned L. Christofferson with such advice, but was simply told there would be some cutting back as yet not determined in scope. Golden was compositely rated to a 48 total, being seen best in quality and worst in categories of attitude and care of his equipment.

3. Steven Johnson was first employed in July 1988 and last worked actively on February 17. He testified with an honest-seeming intent, sufficient that I am persuaded to credit his various assertions.

Johnson had signed both preelection letters and carried out frequent discussions with other employees to convince them of benefiting from the Union. He received a written warning dated January 2 from dispatcher Dyke for claimed disregard of an assigned starting time that morning. Johnson was reluctant to dispute the warning because of his recent and open association with the Union's organizational campaign, however, he denied the factual validity of the supervisor's criticism. His own version of the incident was that heavy midwinter snow left it impossible for him to dig out in time to make the earliest 4 a.m. loading time, but he appeared later as a driver for the first round of loading that day. Johnson was compositely rated to a 41 total, being seen best in quality and quantity of his work but worst in attitude.

4. The Charles J. Kellough was first employed in November 1989 and last actively worked on February 11. He testified in an honest and directly responsive manner, with overall consistency such that I fully credit him.

Kellough had not signed either letter as an organizing committee participant for the Union, but was in attendance at the meeting where Dyke also appeared.[2] Kellough was compositely rated to a 47 total, being seen approximately average in most categories but unanimously worse as to care of equipment.

5. Richard Ostbye was first employed on July 30, 1990, and last actively worked February 1. He was the only alleged discriminatee not called as a witness by General Counsel.

Ostbye had signed at least one of the Union's letters to employees and, as reliably described by Union Representative Jim Hill, attended all campaign meetings and obtained needed supporting signatures from coworkers. Ostbye was compositely rated to a 45 total, being seen as best in quality of his work and worst in quantity.

6. Dennis Stevens was first employed in September 1988 and last actively worked on February 17. Stevens did not testify with a fully convincing demeanor. His hesitancy in answering questions was suspect, however, company accusation that he missed considerable work was contradicted as he himself claimed, by daily work records. These showed that in the critical period of late 1991 and early 1992 he was roughly averaging the 12-hour workdays customary for most logging truckdrivers. Overall, I credit his testimony as being reasonably responsive to dispatch assignments, and alert to important work messages called to his answering machine.

Stevens was a signer of one union committee letter, obtained signatures in support of the Union from several other employees, and attended organizational meetings. He was compositely rated to a 42 total, being seen as best in regard to safety and worst in initiative.

D. *Holdings*

In *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982),[3] the Board set forth its causation test for cases of job termination alleging violations of the Act turning on employer motivation. First, General Counsel must make a prima facie showing sufficient to support the inference that protected conduct

[2] Chief mechanic William Turner was also at this meeting, a person for whom Respondent had supplied business cards titling him as ''Shop Foreman.'' There is limited, conclusionary testimony about his duties, and from the evidence as a whole, I do not find he has been shown to be Respondent's statutory supervisor or agent.

[3] Approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

was a ''motivating factor'' in the employer's adverse action. Once this showing is accomplished, the burden then shifts to the employer to demonstrate that the same action would have taken place notwithstanding such protected conduct. However, it is also well settled that when an employer's claimed motives for its actions are found to be false, such circumstances may warrant an inference that true motives are unlawful and meant to be concealed.[4] True motives may be inferred from total circumstances of the record as a whole, and the Board may infer such animus in the absence of direct evidence.[5]

It is first convincingly established here that Respondent had knowledge of significant union activities by five of the alleged discriminatees, and as to Kellough from the observations of its agent Dyke that he was supportive enough of collective objectives to be in attendance at a union meeting. The intracompany use of truck radios, with voice identification readily made by any listener, added to its knowledge of which employees were in this activist group. Several of the alleged discriminatees were among the most vocal in this regard, particularly around the time of the election.

I infer that Respondent harbored severe animus toward the prospect of unionism on the part of its particular husband-wife ownership duo. While an employer may lawfully hold views on the subject, the strident description of J. Christofferson as to what unions represented more than suggests a capacity for translating such opinions into impermissible action. Her testimony implicates L. Christofferson in this same outlook, for even his conceded beliefs about unions would likely result in clever stratagems to avoid collective bargaining or to retaliate against those most responsible for this prospect.

In general terms, the downturn in timbering activity is evident from employee levels of the past. Two seasons back there were 17 employees that did not return to employee status following that spring breakup, and for the season prior to 1990–1991 at issue that number was 23. Here the number was the extremely more limited six persons that are involved, and the loss of active employee status was involuntary in each case. Further, Respondent claimed to use the structured evaluation system with its measured cutoff at a composite of 50 points in rating. I greatly discredit the authenticity of this exercise, believing instead the entire evaluation system was merely a clumsily devised effort to justify refusing to recall six employees that were sufficiently identified with unionism. I believe this because of the system's extreme crudeness and deficiency as a legitimate business tool, and because J. Christofferson testified in unimpressively unctuous fashion about its purposes, as well as with only a slight comprehension of rating criteria being conveyed to both participating dispatchers. In addition there was a strange disharmony in the rating accorded returned employee Terry Mayer, a person who from the evidence had abandoned support for the Union but for whom only L. Christofferson's unexplainedly high rating of 21 gave this person the exact 50 total supposedly needed for retention. On this narrow point I apply the adverse inference rule as to L. Christofferson's failure to testify in support of his unshared view about Mayer. *International Automated Machines*, 285 NLRB 1122 (1987). Finally Respondent did not give significant weight to the seniority of most alleged discriminatees, a factor that makes General Counsel's case more persuasive as to presumed satisfaction with the group over several past years. In sum, it is not the fact that Respondent's rating program was simplistic that totally influences me; rather that it was openly spurious. Cf., *Bardaville Electric*, 309 NLRB 337 (1992). My resultant holding as part of a *Wright Line* analysis is that General Counsel has established a prima facia case as to each alleged discriminatee.

There remains under such analysis the question of whether Respondent would have taken the same refusal to recall action in the absence of involvement in, or identification with, concerted activities. It is evident, initially, that recent years of operation have shown a decreased number of trucks in use and decreased payments to subcontract haulers. I also factor in that Respondent's employee handbook doubly treats seniority/recall in general and spring breakup procedures in particular, by reciting at least that ''qualifications'' and ''performance during previous season'' are respective considerations. This leads to individual treatment of each person named in the complaint in terms of Respondent's principal criticisms or any impressively mounted defenses.

As to the first of these, Wells Cahoon, I credit his testimony that he had not peculiarly inquired about falsely developing facts for use in his divorce proceeding, and that his truck lubrication responsibilities were fulfilled in reasonable fashion and without supervisory criticism while actively employed. He conceded occasional absences from work for legal affairs, but not to the extent Respondent attempts to depict. He was uncontradicted in attributing a ''good driver'' compliment from L. Christofferson as recently as summer 1990, as well as generally in prior years, and was also once routinely allowed a short leave of absence for personal commitments. Overall, his credited testimony negates the perceived deficiencies in cooperation, attitude and care of equipment as claimed by Respondent to have existed.

As to Golden, I credit his testimony of being an accomplished loader operator, and one who actually preferred logging truckdriving at which he was also competent. He credibly rebutted personnel file notes of being once unreachable, and having permitted an out-of-service truck to be dangerously low on coolant and oil. Golden convincingly recalled several instances in which various employees of Respondent had in the past had truckdriving accidents, establishing by such testimony that rough usage of equipment was a reality in this type of business. Golden himself had once been Respondent's ''driver of the year,'' and while his life was later touched by disturbing personal tragedy he testified that his overall job performance level did not slip for that reason. Respondent's witness David Dixon testified in contradiction to much of what Golden asserted, however, I find Dixon to be a completely unreliable witness because of opinionated, fanciful expression, and I completely discredit him. Overall, Golden's credited testimony negates the perceived deficiencies in cooperation, attitude, and care of equipment as claimed by Respondent to have existed.

As to Johnson, I credit his testimony of being as uncomplaining employee who kept his equipment sufficiently

[4] *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966).

[5] *Asociacion Hospital Del Maestro*, 291 NLRB 198, 204 (1988); *ACTIV Industries*, 277 NLRB 356, 374 (1985); *Heath International*, 196 NLRB 318, 319 (1972).

maintained and orderly, given the condition under which it was used. He credibly denied the criticism about being unreachable, and showed to the contrary that while keeping a particularly conservative sleeping pattern he also had a family mechanism in effect to keep him informed of job needs. He had volunteered for distant work, and had in the past been complimented as a good employee by top management. As was the case with Golden above, I discredit Dixon's attemptedly supportive testimony against Johnson. Overall, Johnson's credited testimony negates the perceived deficiencies in cooperation, attitude, and care of equipment as claimed by Respondent to have existed.

As to Kellough, I credit his testimony of greasing and maintaining equipment according to periodic instructions from management. He credibly described being complimented about his work by both Christoffersons, and to being blameless in certain incidents associated to him by hearsay. Even the suspect testimony of Dixon attributes but slight negative criticism of Kellough, a testimonial in itself that his attitude toward work and coworkers must have been satisfactory. Overall, Kellough's credited testimony negates the perceived deficiency in care of equipment as claimed by Respondent to have existed.

As to Stevens, I sufficiently credit his testimony that while admittedly late for loading assignment on occasion it was no more than ''a lot of them,'' including a close Christofferson family member. Stevens' testimony concerning a mud-bound logging truck in the off-road Little Valley area persuasively neutralized Dixon's extreme version of the incident, and satisfactorily shows Stevens to have been without fault at the time. His denial of a claimed reluctance to perform a specific next-day haul, as assigned by Dyke, was sufficient to rebut the intrinsically vague accusation of unsatisfactory behavior in such a regard. Stevens had also received compliments on his work from both Christoffersons. Overall, Stevens' credited testimony negates the perceived deficiencies in cooperation, attitude, and initiative as claimed by Respondent to have existed.

In all five of the immediately foregoing instances, I hold that credible and often detailed rebuttal testimony of the alleged discriminatees is more probative than the very generalized and often insincere-seeming summary of complaints by the supervisory dispatchers. Absent L. Christofferson's testimony, and considering that J. Christofferson had little personal knowledge of day-to-day operational happenings in the woods and on the roads, I find that Respondent has not met its burden of showing that it would have refused to recall these individuals even given that a motivating reason to discriminate against them for concerted activities was present. In the case of Ostbye, I cannot reach the same conclusion from the evidence in the absence of his live testimony. While I am not impressed greatly with the witnessing of Johnson and Dyke, it is more a matter of their bias rather than their not having some legitimate memory of justifiable criticism. In the case of Ostbye this criticism was sharply focused on his poor attitude and quantity of work achieved. While even this is sketchy at best, my ultimate holding is that a bare burden of proof has been met by Respondent as to Ostbye. In reaching this conclusion, I do not rely on the undocumented, and otherwise improbable, testimony of Controller Pri Fernando that Ostbye had voiced an intention of quitting his employment in early February. He was, however, newest in seniority of all persons at issue, and I propose dismissing the complaint to the extent that it alleges his termination to be unlawful.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. By refusing to recall employees Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens from layoff because they joined or supported the Union, Respondent violated Section 8(a)(1) and (3) of the Act.

4. General Counsel failed to prove that Respondent unlawfully refused to recall employee Richard Ostbye from layoff.

REMEDY

Having found that Respondent engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom, and to take certain affirmative action necessary to effectuate the policies of the Act.

Having found that Respondent decided on or about April 15 to refuse recall from layoff of employees Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens, I shall recommend that Respondent be ordered to offer employees immediate and full reinstatement to their former positions of employment, without prejudice to their seniority or other rights and privileges, and to make them whole for any loss of earnings suffered by reason of the unlawful discrimination against them, less interim earnings, with backpay and interest thereon to be computed in the manner prescribed in *F. W. Woolworth Co*., 90 NLRB 289 (1950), and *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Disposition

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[6]

ORDER

The Respondent, Christofferson Logliners, Inc., Missoula, Montana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to recall employees from layoff because they assisted Union Local 3038 and engaged in other concerted activities.

(b) In any like or related manner interfering with, restraining, or coercing employes in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens immediate and full reinstatement to their former jobs or, if those jobs no

[6] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the decision.

(b) Remove from its files any reference to the unlawful termination of Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens and notify them in writing that this has been done and that the unlawful refusals to recall them will not be used against them in any way.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Missoula, Montana, copies of the attached notice marked ''Appendix.''[7] Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found herein.

[7] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

> To organize.
> To form, join, or assist any union.
> To bargain collectively through representatives of their own choice.
> To act together for other mutual aid or protection.
> To choose not to engage in any of these protected concerted activities.

WE WILL NOT refuse to recall employees from layoff because they assisted Union Local 3038 and engaged in other concerted activity.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, plus interest.

WE WILL remove from our files any reference to the termination of Wells Cahoon, Thomas Golden Jr., Steven Johnson, Charles Kellough, and Dennis Stevens and notify them in writing that this has been done and that our refusals to recall them will not be used against them in any way.

CHRISTOFFERSON LOGLINERS, INC.